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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re J.G. et al., Persons Coming Under the Juvenile Court Law.	
SOLANO COUNTY DEPARTMENT OF HEALTH AND SOCIAL SERVICES, CHILD WELFARE SERVICES, Plaintiff and Respondent, v. J.T., Defendant and Appellant.	A153847 (Solano County Super. Ct. Nos. J40424, J40425, J40426, J42982, J42983)

This case concerns a family of five children: one boy, J.G. age 14; and four girls, T.C. age 10, A.G. age 9, J.G. age 7, and W.C. age 5. J.T. (Mother) has been the sole parent, as the fathers of the children have not been in the picture. Their parental rights, and Mother's, were terminated in January 2018. The permanent goal for the boy is legal guardianship, and the permanent plan for the four girls is adoption in two groups of two half-siblings each. Mother appeals, contending (1) there is insufficient evidence the four girls are adoptable; (2) the beneficial sibling relationship exception to termination of parental rights should have been applied; (3) the beneficial parental relationship exception should have been applied; and (4) the permanent plan for the girls should have

been guardianship instead of adoption. We find no error and affirm the juvenile court's judgment.

I. BACKGROUND

The family came to the attention of the Solano County Department of Health and Social Services, Child Welfare Services (Department) when a concerned passerby reported seeing J.G. (girl), then three years old, moving her hand up and down on a man's erect penis as he reclined in the driver's seat of a car parked near Independence Park in Vallejo on April 18, 2015. The three older children were playing in the park unattended. The man was Raymond T., the husband of B.T., the children's maternal grandmother. Raymond T. was on parole after serving 25 years in prison for kidnapping a child and robbery. After realizing he had been seen, Raymond T. gathered the other children and was arrested as he tried to depart the scene in his car with all four children. He was charged with lewd and lascivious acts with a child under 14 and a parole violation. It later came to light that Raymond T. had also molested A.G. and T.C. Raymond T. was ultimately convicted of sexually abusing A.G. and T.C. and was sentenced to 60 years to life in prison.

The grandmother, when confronted, claimed she did not know Raymond T. "was like that." In fact, she said she did not know him very well, though they had been married for two or three years (since shortly after he was released on parole).

Mother had left the four oldest children with B.T. for more than two months and had signed a notarized letter giving her mother permission to have custody of them. Mother kept W.C., the youngest (then age 20 months), with her, though she was homeless and living in her car. J.G. (boy) shares a mother with the other children, but not a father. T.C. and W.C. are full siblings, as are A.G. and J.G. (girl).

At the time of the hearing under section 366.26, when Mother's parental rights were terminated (the termination hearing), Mother explained she thought her children would be safe with her mother, she did not know they would be left in Raymond T.'s care, and she did not know Raymond T.'s criminal history presented a risk for her children. She volunteered that she had always been safe growing up in her mother's

home, so she assumed her children would be safe, too. To the contrary, grandmother B.T. had told the social workers that Mother and her sister had been molested by their father in childhood without B.T.'s knowledge.

Mother initially resisted giving W.C. to the Department but complied after the court issued a warrant. The juvenile court detained all five children, and Mother was in no position to regain custody of them, as she did not have a home. She was unable to provide for them due to a combination of mental health issues, substance abuse, domestic violence with men in her life, unemployment, and chronic homelessness. She had exposed the children to severe domestic violence and regularly subjected them to "filthy" living conditions when she had anywhere for them to live at all.

There had been a previous dependency case for the three oldest children beginning in October 2010, following an incident of domestic violence involving a weapon, in which Mother was the victim. The dependency ended when the children were returned to Mother in July 2013. For the school year beginning in August 2014, the children attended only 12 days; Mother then withdrew them from school and took them to Oregon, where they did not attend school, returning with them to Solano County in late 2014 or early 2015. They were re-enrolled in school in February 2015. Mother then left the four oldest children with her mother for a planned six months, while she and the youngest child lived in her car and she concentrated on finding housing. Yet, when she was offered housing assistance by the Department, she initially turned it down, saying she would rather live in her car.

After a brief emergency detention, the four oldest children were placed in two sibling groups: J.G. (boy) and T.C. in one foster home and A.G. and J.G. (girl) in a different foster home, joined by W.C. after Mother surrendered her to the Department at the end of April 2015. On June 2, 2015, the juvenile court sustained the petition for all five children under Welfare and Institutions Code[1] section 300, subdivisions (b), (g) and

[1] Further undesignated statutory references are to the Welfare and Institutions Code.

(j), and for J.G. (girl), also under subdivision (d). Due to the Department's inability to locate a foster home that could take all five children, in late June 2015, the three oldest children were placed together in one foster home and the two youngest were placed in a different foster home.

The oldest child, J.G. (boy), was placed separately from his sisters in August 2017. He was placed with a single father and two other boys at the time Mother's parental rights were terminated. He did not want to end his relationship with Mother, so he preferred to be in a guardianship. (See § 366.26, subd. (c)(1)(B)(ii).) He opposed being adopted and resisted his sisters' adoption because he wanted to maintain sibling contacts. He did not want to go into a guardianship with his current foster father, though. At the time of the termination hearing, the Department was still looking for a permanent guardian for him. Mother's parental rights were not terminated to J.G. (boy). Mother's appeal raises no issues regarding the orders made for him.

The two oldest half-sisters, T.C. and A.G., have consistently been placed together in foster care since June 2015, but have moved from placement to placement. As of the termination hearing, they had spent 51 months in foster care during the two dependencies and had been in nine different foster placements during the current dependency alone. In the six months preceding the termination of parental rights, two different sets of foster parents had requested that T.C. and A.G. be removed from their care because they were overwhelmed by the sisters' behavior. Mother claims, because of their emotional dysregulation, these two children are not adoptable.

The two youngest fared better in foster care. They had spent 33 months in foster care in four different placements. At the time of the termination hearing, however, they had been in a stable placement for 19 months. Despite the Department's having identified a couple eager to adopt these two girls, Mother claims they are not adoptable.

Mother received at least 30 months of family reunification and family maintenance services in connection with the first dependency in 2010. After receiving 15 more months of reunification services during the current dependency, she failed to

reunify with the children. Her services were terminated in July 2016,[2] and a section 366.26 hearing was set for November 2016.

In November 2016, the termination hearing was continued to December, and in December 2016, it was continued to May 2017 to allow the Department additional time to formulate a permanent plan for the children. In May 2017, a hearing was held, adoption was selected as the girls' permanent goal, without termination of parental rights, guardianship was selected as the permanent goal for J.G. (boy), and the matter was again continued to November 2017 at the Department's request. After one more continuance, the termination hearing was held on January 25, 2018.

Mother and the father of A.G. and J.G. (girl) objected to the plan of adoption proposed by the Department for the four girls. One of the father's primary concerns was that his two daughters would be separated by adoption into two different families. He claimed his daughters were not adoptable and the sibling exception should apply. Mother claimed none of the children was adoptable, and she asserted both the sibling exception and the beneficial parental relationship exception to termination of her parental rights. (§ 366.26, subd. (c)(1)(B)(i), (c)(1)(B)(v).)

The court selected guardianship as the permanent goal for J.G. (boy) and adoption as the permanent plan for the four girls. The court considered the parents' argument that

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[2] In August 2017, Mother filed a request under section 388 that her reunification services be reinstated. She claimed she was now regularly participating in therapy as a changed circumstance. At the termination hearing, the court heard and denied the request, finding Mother's claim of regular participation in therapy was untrue, given the Department's assessment that her engagement had been "erratic at best." Mother had also undergone a psychological evaluation in the summer of 2016 which resulted in a prognosis of " 'guarded to poor,' " noting her condition would require " 'years of intense, weekly psychotherapy.' " The judge found no changed circumstances and found it was not in the children's best interests to reinstate Mother's services. Mother listed denial of the section 388 motion in her notice of appeal, but raises no issue relating to that denial in her briefing.

The father of A.G. and J.G. (girl) also filed a section 388 petition just before the termination hearing asking for reunification services, claiming he had been clean and sober for five or six months. He had initially been bypassed for services under section 361.5, subdivision (b)(1). The court denied his request, and he did not appeal.

the girls were not adoptable "disingenuous" and said the parents should not "benefit" from a finding that the children were not adoptable, given that the children's behaviors were a "product of the behaviors of the parents."[3] The judge found the children likely to be adopted "based upon what [the judge] believe[d] to be a fair assessment of the children, that they are bright, loving, playful, warm children who will adapt to and thrive in a stable environment." He denied applicability of the beneficial sibling and beneficial parental relationship exceptions and terminated Mother's parental rights to the girls and those of all the fathers. Mother appeals.

II. DISCUSSION

A. *The Adoptability Determination*

1. Mother's contentions

Mother contends the juvenile court's January 25, 2018 finding that the four girls were adoptable was not supported by substantial evidence. Mother argues, based on their ages, challenging behaviors, multiple failed placements, emotional characteristics, and their close relationship with Mother and each other, the children were not generally adoptable. Furthermore, despite the Department's searching for 18 months, the girls had not been placed with adoptive families. Mother insists the evidence did not show the children were likely to be adopted within a reasonable time.

2. The Law

At a section 366.26 hearing, the juvenile court is required to select and implement a permanent plan. The court has several options in the following order of preference, which may be broadly grouped as adoption, guardianship or long-term foster care. (§ 366.26, subd. (b); *In re Collin E.* (2018) 25 Cal.App.5th 647, 663.) "If a child is

[3] Mother suggests the court erred in expressing this belief because dependency is not intended to punish parents for their shortcomings, but rather to protect and promote the children's best interests. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) Though the judge evidently (and reasonably) believed the parents' conduct led to the children's emotional difficulties, there is no reason to suspect he based his finding of adoptability of the girls even remotely on a desire to "punish" Mother. (See *ibid.*)

adoptable, there is a strong preference for adoption over the alternative permanency plans." (*In re Collin E.*, at p. 663.)

Before freeing a minor for adoption, the court must first find by clear and convincing evidence that it is likely the minor will be adopted within a reasonable time. (§ 366.26, subd. (c)(1); *In re A.A.* (2008) 167 Cal.App.4th 1292, 1313.) The Department has the burden to prove adoptability. (*In re Thomas R.* (2006) 145 Cal.App.4th 726, 731; *In re Brian P.* (2002) 99 Cal.App.4th 616, 623 (*Brian P.*).) The juvenile court addresses each child individually and considers that child's adoptability by focusing on whether the child's age, physical condition and emotional state are such that he or she would not have difficulty finding an adoptive home. (*In re Zeth S.* (2003) 31 Cal.4th 396, 406.) A child's young age, good physical and emotional health, intellectual growth and ability to develop interpersonal relationships are all attributes indicating adoptability. (*In re Gregory A.* (2005) 126 Cal.App.4th 1554, 1562.) A finding of adoptability cannot be based upon the opinion of a social worker alone. (*Brian P.*, at p. 624; *In re Kristin W.* (1990) 222 Cal.App.3d 234, 253.) The current existence or non-existence of prospective adoptive parents is not determinative of adoptability but is a factor to be considered.[4] (*In re Erik P.* (2002) 104 Cal.App.4th 395, 400.)

Significant deference is due the trial court. On appeal, we review the record for substantial evidence from which a reasonable trier of fact could find by clear and convincing evidence that the child was likely to be adopted within a reasonable time. (*Brian P.*, *supra*, 99 Cal.App.4th at pp. 623-624; *In re Valerie W.* (2008) 162 Cal.App.4th 1, 13; *In re Erik P.*, *supra*, 104 Cal.App.4th at p. 400; see generally, *T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1238–1240.)

[4] If a child is declared adoptable but an adoptive family is not identified within three years, the child may petition to have parental rights reinstated, which tends to minimize the possibility that a child will become a legal orphan. (§ 366.26, subd. (i)(3); *In re I.I.* (2008) 168 Cal.App.4th 857, 871.)

3. Evidence of the girls' adoptability

The social worker who testified at the termination hearing described the girls as "exceptional because they have been—had such disruption in their lives, such abuse and neglect in their lives, and yet they remain smart, articulate, affectionate, warm, loving children. [¶] And they are funny and playful and on so many levels regular kids, just in need of a regular home." The social worker's written report described them as having "unique and attractive personalities," as well as being "affectionate and fun-loving," noting that all four girls "show signs of healthy attachment to not only their caregivers, but to other adults around them. They clearly have the capacity to attach to a loving, patient parent (or parents)." "All the children are bright, remarkably resilient and have enormous potential to lead successful lives." "All four girls are charming, beautiful, polite, respectful and resilient young girls and they are in desperate need of healthy adults to attach to . . . ."

The judge, in finding the girls adoptable, characterized them as a group as "bright, loving, playful, [and] warm." We next consider each child's status at the time of the termination hearing, concluding there was substantial evidence to support a finding that each child was likely to be adopted within a reasonable time.

a. T.C.

T.C. was described in the social worker's report as "creative" and sociable in school. She takes pride in her accomplishments. When she first entered the current dependency, she had issues with stealing, lying, destroying property, and acting aggressively with peers. By the time of the termination hearing, she had stopped having those problems and had "learned to take responsibility for her actions." She has been generally in good physical health throughout the dependency, but was diagnosed with attention deficit hyperactivity disorder (ADHD) and post-traumatic stress disorder (PTSD) in March 2016. Medication helped with her aggression and conduct problems, but not her hyperactivity.

T.C. and A.G. had been in nine foster placements during the dependency. In August 2017, they were moved to a new foster home, but the foster mother quickly

reported difficulty managing the girls, especially A.G.'s out-of-control behavior. Less than three months later they were moved, at the foster mother's request, to another foster home in Contra Costa County. The new foster mother twice called the police when A.G. had screaming fits and was unable to calm down after four hours. Then, after one parental visit, T.C. had a "major meltdown" and the foster mother was unable to manage her behavior for the first time. At that point, the foster mother gave notice that she wanted both girls removed from her care. They went into emergency placement for seven days beginning in late December 2017. After that, they were again placed in a new foster home with experienced foster parents in the hope of establishing stability, but they had been there only three weeks as of the termination hearing.

T.C. was nine years old when parental rights were terminated, and A.G. was eight, which made them somewhat less likely to be adopted. (See § 366.26. subd. (c)(3) [age threshold of seven years for finding child difficult to place for adoption based on age].) There had also been a disclosure meeting[5] with a single woman potentially interested in adopting the sisters, but she decided not to go through with it.

Nevertheless, the Department had identified 21 families interested in adopting a sibling set such as T.C. and A.G., meaning they were open to adopting children with moderate to severe behavioral issues, more severe than A.G.'s "moderate" behavioral challenge, which was more problematic than T.C.'s. Three families specifically were willing to adopt children who had been subjected to sexual abuse. Therefore, the social worker was optimistic that an adoptive family could be found for the sisters. The summaries of the children's status as described by the social worker constituted substantial evidence supporting the court's finding that T.C. was adoptable.

b. A.G.

A.G.'s general history of placements mirrored T.C.'s. She is a year younger than T.C., and at the time of the termination hearing, her behavior was more concerning than

[5] At a disclosure meeting, the prospective adoptive parents receive highly confidential information about the potential adoptive child or children.

T.C.'s. Yet, in May 2016 she was described as "outspoken with good communication skills" and capable of solving conflicts with her peers. In July 2016, the social worker testified A.G. "does not present with any behavioral issues." In December 2016, her court-appointed special advocate (CASA) described her as "very smart and resilient." In April 2017, the social worker met with the three oldest children and A.G.'s therapist to discuss permanency. This was apparently when A.G. learned she would not reunify with Mother. In May 2017, A.G.'s CASA reported she had been having some difficulty following instructions at home and had been experiencing "crying spells." By January 2018, one of the concerns about A.G. was that she had started eating to comfort herself, with the implication that she may not have been following healthy nutritional habits.

A.G. and T.C. did have a bonded but contentious relationship. They fought over clothes and such to the extent that two foster families requested they be removed, as described above. A.G. had an especially hard time calming down after losing her composure. A.G.'s behavior became still more challenging after she testified at Raymond T.'s trial in August 2017.

In November 2017, A.G. was described as "bright and outgoing with everyone" she meets. By January 2018, the social worker reported A.G. was having "no problems at school, enjoy[ing] her peers and [was] academically sound."

Despite the challenges, the social worker recommended adoption for both girls because they showed an ability to form healthy attachments to adults in their lives, they desperately needed permanence, and their adverse behaviors were a normal reaction to trauma that could improve with appropriate handling. It is not unusual for children with medical and behavioral profiles similar to T.C.'s and A.G.'s to be declared adoptable. (See *In re Michael G.* (2012) 203 Cal.App.4th 580, 585, 587, 589–593 [seven year old found generally adoptable despite history of aggressive and defiant behavior, severe tantrums, numerous placements, nightmares and bed-wetting]; *In re I.W.* (2009) 180 Cal.App.4th 1517, 1522, 1524–1527 [ten year old with PTSD, ADHD, a learning disorder and a history of severe behavioral problems found adoptable]; *In re Gregory A.*, *supra,* 126 Cal.App.4th at pp. 1558, 1563 [seven year old diagnosed with ADHD who

was in therapy and for whom psychotropic medication had been recommended found adoptable].) There was substantial evidence A.G. was adoptable.

c. J.G. (girl)

J.G. (girl) was, of course, the child whose plight first brought the family into the current dependency. She initially exhibited sexualized behaviors, but by the time of the termination hearing, such behaviors had ceased. She no longer had problems with enuresis or encopresis, which had been evident early in the dependency. She and W.C. had been in a total of four placements, but they had been in the same foster home for 19 months.

In May 2016 it was reported that J.G. (girl) was pulling out clumps of her hair and stashing it under her bed. In November 2017, the social worker wrote that J.G. (girl) "has low self-esteem and frightens easily." She was "fearful of authority figures and in particular law enforcement. She [would] withdraw from academic challenges and lack[ed] the confidence to keep trying, and this [could] turn into distress expressed through regression (with screaming and talking like a baby)." Permission to give her psychotropic medication was sought and granted in November 2017 to help with her "disruptive, oppositional and defiant behaviors, aggressive threats, poor social skills, fidgeting/impulsivity, and difficulty following directions." She also had speech delays, intermittent asthma, and eczema. She had been diagnosed with ADHD, oppositional defiant disorder, PTSD, and an unspecified trauma-related disorder.

In a January 2018 addendum report, J.G. (girl) was described as "reserved and thoughtful, but equally playful when relaxed and comfortable." Though noting she had "struggled behaviorally in her foster home and at school," the social worker opined that "therapeutic interventions along with medication ha[d] shown considerable success in reducing these challenges." Importantly, J.G. (girl) was able to form attachments to healthy adults in her life. She was six years old at the termination hearing.

Shortly before the termination hearing, a prospective adoptive family had been identified for J.G. (girl) and W.C., though the girls had not yet moved into the prospective adoptive home. The proposed adoption had proceeded through the disclosure

stage. Having received the disclosures, the prospective adoptive family remained "very excited" to move forward with the adoption, and the Department had approved them as an adoptive placement.

d. W.C.

W.C. had consistently been placed in the same foster homes with J.G. (girl), so she, too, was in a stable foster placement and awaiting placement with her prospective adoptive family. W.C. was healthy, with age-appropriate development. She was described by the social worker as bright and outgoing. She was the only one of the girls who was not molested by Raymond T. She was described as "mentally and emotionally stable" with "no mental health issues" and having "sustained ongoing well-being."

She was four years old at the time of the termination hearing. She appears to be a happy and lovable child. We see nothing in the record reflecting concerns about her behavior that would stand in the way of adoption into an otherwise willing family. There was substantial evidence she was adoptable.

B. *The Beneficial Sibling Relationship Exception*

1. The Law

Mother contends the trial court erred in failing to apply the beneficial sibling relationship exception to termination of parental rights. That exception is codified in section 366.26, subdivision (c)(1)(B)(v), which provides in relevant part, if a child is found adoptable, "the court shall terminate parental rights unless . . . [¶] [t]he court finds a compelling reason for determining that termination would be detrimental to the child [because] . . . [¶] [t]here would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption."

The sibling relationship exception is rarely applied. (*In re D.O.* (2016) 247 Cal.App.4th 166, 174 (*D.O.*).) The person advocating against termination of parental rights has the " 'heavy burden' " of establishing the exception. (*In re Celine R.* (2003) 31 Cal.4th 45, 61.) It is the detrimental impact of the termination of sibling contact on the child being considered for adoption, not on his or her siblings, that must be assessed. (*Id.* at p. 54.) Hence, J.G. (boy)'s initial opposition to the adoption of his sisters because he would miss the sibling connection should not influence the court's decision unless the girls themselves would suffer detriment from a disruption of the sibling bond.

In a two-step process, the court first determines whether terminating parental rights would substantially interfere with the sibling relationship, considering the factors indicated in the statute. Second, if terminating parental rights would substantially interfere with the sibling relationship, the court must weigh the child's best interest in continuing the relationship against the benefits the child would enjoy in a permanent adoptive home. (*D.O.*, *supra*, 247 Cal.App.4th at pp. 173–174; *In re L.Y.L.* (2002) 101 Cal.App.4th 942, 951–952.)

On the first prong, which involves a factual determination, the substantial evidence standard applies on review, whereas a decision based on the second prong—involving a weighing of competing interests—would call for an abuse of discretion standard. (See *In re J.S.* (2017) 10 Cal.App.5th 1071, 1080; *D.O.*, *supra*, 247 Cal.App.4th at p. 174; *In re K.P.* (2012) 203 Cal.App.4th 614, 621–622 [adopting "composite" standard]; *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315.)

2. The Trial Court's Ruling on the Sibling Relationship Exception

The court based its ruling on the likelihood that the adoptions would not disrupt the sibling relationships because of the Department's emphasis on maintaining sibling connections. "I think it is pure speculation that these children will not see each other again upon being adopted.[6] I think more likely that someone who is willing—someone

[6] The expectation that siblings will continue to have contact with one another after adoption is a factor the court may consider in assessing the sibling relationship exception. (*D.O.*, *supra,* 247 Cal.App.4th at p. 175; see also *In re Isaiah S.* (2016) 5 Cal.App.5th

or people who are willing to step forward and adopt these children are going to want them to do this. I think that common sense would tell us that they want these children to be happy and healthy and well connected with their siblings. [¶] And so I would conclude that terminating parental rights would not create a substantial interference with the sibling relationship so that exception does not apply." Because the judge ruled on the first prong, and never engaged in a weighing of competing interests, the substantial evidence standard of review applies. (*In re J.S.*, *supra*, 10 Cal.App.5th at p. 1080.)

3. The Evidence Supports Denial of the Sibling Relationship Exception

The children recognize one another as siblings and have bonds from the time they all lived with Mother and from the visitation they have kept up during the dependency. Their relationships are sometimes "strained," and they have at times been physically aggressive toward one another. Yet, J.G. (boy) always asked about having visits with his siblings when he spoke to the social worker. J.G. (boy), T.C. and A.G., in April 2017, all expressed their desire to move back in with Mother and their siblings. Early in the dependency, the siblings met together with Mother for one hour every week, later increased to two hours per week. Since July 2016, the children have had sibling visitation for one hour every two weeks at the same time they see Mother.[7] The Department has not arranged separate siblings-only visits. But about once every two months, the children spent weekends together at the foster home of J.G. (girl) and W.C. All the children enjoyed the visits and looked forward to them.

The Department recognized a value in these sibling bonds. In an effort to maintain them, the Department hoped to have sibling visits continue post-adoption and was specifically looking for adoptive parents who would agree to that. This was an

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428, 438; *In re Valerie A.* (2007) 152 Cal.App.4th 987, 1014; *In re Daisy D.* (2006) 144 Cal.App.4th 287, 293; *In re Jacob S.* (2002) 104 Cal.App.4th 1011, 1019, disapproved on another ground in *In re S.B.* (2009) 46 Cal.4th 529, 537, fn. 5; *In re Megan S.* (2002) 104 Cal.App.4th 247, 254.)

[7] The sibling exception, unlike the beneficial parental relationship exception, does not require proof the siblings maintained regular visitation during the dependency. (§ 366.26, subd. (c)(1)(B)(i), (c)(1)(B)(v); *Valerie A.*, *supra*, 152 Cal.App.4th at p. 1010.)

"important part of the assessment" in matching the girls with an adoptive family. The prospective adoptive parents of J.G. (girl) and W.C. had already agreed to maintain sibling contacts after adoption. Given this evidence, together with the evidence that 21 potential adoptive families had been identified for T.C. and A.G., there was substantial support for the court's finding that future, post-adoptive contact between the siblings was likely, and hence termination of parental rights would not result in a "substantial interference" with the sibling relationships. (§ 366.26, subd. (c)(1)(B)(v).)

C. *The Beneficial Parental Relationship Exception*

1. The Law

Section 366.26, subdivision (c)(1)(B)(i) provides an exception to the termination of parental rights if "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." A beneficial relationship is one which " 'promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.' " (*In re Brandon C.* (1999) 71 Cal.App.4th 1530, 1534, quoting *In re Autumn H.* (1994) 27 Cal.App.4th 567, 575 (*Autumn H.*).) It is the parent's burden to show the existence of such a relationship. (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1343–1345.) A parent may not claim entitlement to the parental relationship exception simply by demonstrating some benefit to the child from a continued relationship with the parent, or some detriment from termination of parental rights; he or she must show a " 'compelling reason' " for not terminating parental rights. (*In re Logan B.* (2016) 3 Cal.App.5th 1000, 1009–1013; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1347–1349 (*Jasmine D.*).)

To establish the beneficial parental relationship exception, "the parents must do more than demonstrate 'frequent and loving contact' [citation], an emotional bond with the child, or that the parents and child find their visits pleasant." (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108.) "The parent must show he or she occupies a parental role in the child's life, resulting in a significant, positive, emotional attachment between child and parent." (*In re Mary G.* (2007) 151 Cal.App.4th 184, 207; see *In re Beatrice M.*

(1994) 29 Cal.App.4th 1411, 1416–1418 (*Beatrice M.*).) The parent must show the parent-child relationship is such that the child will be greatly harmed by the termination of parental rights, so that the presumption in favor of adoption is overcome. (*In re Brittany C.* (1999) 76 Cal.App.4th 847, 853.)

We employ the same composite standard of review we applied in connection with the sibling relationship exception. (See *ante*, part II.B.2.) We review the factual issue of the existence of a beneficial parental relationship under the substantial evidence standard and the determination of whether there is a compelling reason for finding termination detrimental to the child under the abuse of discretion standard. (*In re Anthony B.* (2015) 239 Cal.App.4th 389, 395; *In re J.C.* (2014) 226 Cal.App.4th 503, 530–531.)

2. The Trial Court's Ruling on the Parental Relationship Exception

The court ruled: "Concerning the beneficial relationship exception I would specifically find that terminating parental rights would not be detrimental to the children despite the fact that the mother has met with them. Those visits are characterized as chaotic and that the mother would bring people with her who shouldn't be there who ratcheted up the unstable environment in which these visits should have taken place and despite being asked not to do that. [¶] And whatever beneficial relationship they [*sic*] exist there, it doesn't rise to the level of justifying that exception. So the beneficial relationship exception does not apply."

3. The Evidence Supports Denial of the Beneficial Parental Relationship Exception

Mother had supervised visits scheduled with the children every other Tuesday, which she attended regularly. Mother usually brought the children's favorite foods for them. She also tended to bring relatives and friends to the visits, though she had been told not to, much to the annoyance of the visitation monitors. The visits were described as " 'chaotic[,]' with the children shouting and screaming over each other for attention, squabbling with one another from lack of adequate supervision." Meanwhile, "none" of the children's "needs for love and intimacy are met." The behaviors from visits "carr[ied] over into their foster homes after each visit," with the children suffering from

"emotional dysregulation." The children were said to have an "unhealthy relationship" with Mother and a "traumatic attachment."

In particular, the social worker reported that Mother and B.T. continued to deny the children had been sexually abused by Raymond T.[8] Mother even testified on Raymond T.'s behalf at his trial. This denial by Mother "undermine[d] her ability to assist her children in healing from the trauma they have endured" and "exacerbate[d] their psychological distress." The social worker concluded the visits were "not in the best interest of the children." Mother "clearly loves her children, but evidence unequivocally shows she is unable to adequately provide for them, care for them, keep them safe, provide stability, and is unable [to] support them through their severe trauma and recovery."

Nevertheless, the children remained attached to Mother, with A.G. experiencing "crying spells" after learning she would not reunify with Mother, and T.C. saying in April 2017, she wanted to go back to a " 'normal life,' " living with Mother and her siblings. In January 2016, J.G. (boy), T.C. and A.G. said the visits with Mother were good, and all expressed the desire to return to her care. In December 2016, A.G. communicated to the court through her CASA that "she really misse[d] her mother." J.G. (boy) was so attached to Mother that he protested being adopted, and since he was over 12 years old, his wishes were honored. (See § 366.26, subd. (c)(1)(B)(ii).)

The younger children were sufficiently bonded with Mother to look forward to their visits with her, but they were negatively affected by those visits. T.C. once became so dysregulated after a visit with Mother that it led to a change in placement. The parent-child relationship was not, objectively speaking, of "benefit" to the children. (§ 366.26, subd. (c)(1)(B)(i).) The children's attorney at the termination hearing voiced the opinion that the visits had been "more detrimental than beneficial."

[8] Mother denied this accusation at the termination hearing and provided a contradictory account.

No one doubts that Mother loves her children, and they, in turn, love her. The social worker acknowledged Mother "tries but she is just not able to provide them with that sense of security and stability. She can't provide for them emotionally." The social worker described Mother as a "friendly visitor" for the children every two weeks, rather than a parental figure. But "a *parental* relationship is necessary for the exception to apply, not merely a friendly or familiar one." (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350; see also *Beatrice M.*, *supra*, 29 Cal.App.4th at pp. 1419–1420.) The parental role is characterized by "the adult's attention to the child's needs for physical care, nourishment, comfort, affection and stimulation." (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) Whether a beneficial relationship exists depends in part on "[t]he age of the child, the portion of the child's life spent in the parent's custody, the 'positive' or 'negative' effect of interaction between parent and child, and the child's particular needs . . . ." (*Id.* at p. 576.)

Bearing those factors in mind, there was substantial evidence to support the finding that Mother's relationship with her four daughters was not one fitting into the narrow category of those whose "benefit" to the child outweighs the permanence and stability of adoption. (§ 366.26, subd. (c)(1)(B)(i); see *Autumn H.*, *supra*, 27 Cal.App.4th at pp. 575–576.) The Department concluded "the benefits of permanency for these children, particularly given their trauma and emotional dysregulation in response to the uncertainty in their lives, far outweighs the benefits that they would receive by maintaining the legal parent-child relationship" with Mother. The court did not abuse its discretion in agreeing with that assessment.

D. *Adoption Versus Guardianship*

Adoption is the legislatively preferred option for dependent children whose parents fail to reunify within the statutorily prescribed times. (§ 366.26, subd. (b)(1).) We have already explained why Mother's children, though emotionally scarred, were properly determined to be adoptable. When the juvenile court finds a dependent child adoptable, it is obligated to select a permanent plan in a given order of preference. (§ 366.26, subd. (b).) Mother bears the burden of showing the necessity of descending to

a lower-preference option, such as guardianship, which is available only if she can prove a statutory exception applies. (*In re J.C.*, *supra*, 226 Cal.App.4th at p. 528.) She failed in her attempts to bring her family within the sibling relationship or beneficial parental relationship exceptions. She argues guardianship is preferable to adoption for reasons largely repeating those made in support of the statutory exceptions, and we reject her argument for the same reasons given above.

"[G]uardianship is not in the best interests of children who cannot be returned to their parents." (*Beatrice M.*, *supra*, 29 Cal.App.4th at p. 1419.) "Guardianship is only the best possible permanent plan for children in circumstances where an exception to the termination of parental rights applies." (*Ibid*.) Here, because we have already concluded that section 366.26, subdivision (c)(1)(B)(i) and (c)(1)(B)(v) do not apply, "it necessarily follows that the juvenile court correctly determined that adoption was the appropriate permanent plan" for the girls. (*Beatrice M.*, at p. 1420.) "The Legislature has decreed . . . that guardianship is not in the best interests of children who cannot be returned to their parents. These children can be afforded the best possible opportunity to get on with the task of growing up by placing them in the most permanent and secure alternative that can be afforded them. . . . 'Although guardianship may be a more stable solution than foster care, it is not irrevocable and thus falls short of the secure and permanent placement intended by the Legislature.' " (*Id*. at p. 1419; accord, *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1344.)

The judge decided the best option for the four girls was adoption. He made an exception for J.G. (boy) due to his request that he not be adopted. There was no unsupported factfinding or abuse of discretion in reaching these conclusions.

III. DISPOSITION

The orders of January 25, 2018 are affirmed.

_____
Streeter, Acting P.J.

We concur:

_____
Tucher, J.

_____
Lee, J.*

* Judge of the Superior Court of California, County of San Mateo, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.